

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RICHARD GENE REES,

Plaintiff,

vs.

No. CV 21-00029 MV/CG

CLOVIS POLICE DEPARTMENT,
JORDAN RIDDLE, ADAM GREENE,
FINN BRITTANY, COOK MACKENZIE,
LOOMIS TRAVIS, DANIEL TRUDANE,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court under Rule 41(b) of the Federal Rules of Civil Procedure on the complaint (Doc. 1), amended complaint (Doc. 4), and second amended complaint (Doc. 5) filed by Plaintiff Richard Gene Rees. The Court will dismiss this case without prejudice for failure to comply with a Court order, failure to comply with the Local Rules, and failure to prosecute this action.

The record reflects that certain mailings to Plaintiff were returned as undelivered. *See* Doc. 13, 15. At the time this case was commenced, Plaintiff was incarcerated at the Curry County Adult Detention Center (“CCADC”). Doc. 1. The returned mail indicates that Rees is “no longer here.” Doc. 13. CCADC records show that Plaintiff was booked into the facility on November 14, 2020, released from custody on February 5, 2021, booked again on April 9, 2021, released again on April 29, 2021, booked a third time on June 29, 2021, and released a third time on July 29, 2021. Plaintiff is not presently at the CCADC and there is no current mailing address available for him. It appears that Plaintiff was transferred or released from custody without advising the Court of his new address, as required by D.N.M. LR-Civ. 83.6, thus severing contact with the Court. *See*

Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980) (“It is incumbent on litigants, even those proceeding pro se, to follow the federal rules of procedure. . . . The same is true of simple, nonburdensome local rules . . .”) (citation omitted).

On November 2, 2021, the Court entered an Order to Show Cause directing Plaintiff to provide the Court with a current address or show cause why the case should not be dismissed. Doc. 14. The Order set a deadline of 30 days for Plaintiff to provide the Court with his address or show cause. *Id.* at 2. The Order to Show Cause also notified Plaintiff that if he failed to comply with the Order to Show Cause, this case could be dismissed without further notice. *Id.* More than 30 days has elapsed since entry of the November 2, 2021 Order and Plaintiff has not provided the Court with an address, shown cause why the case should not be dismissed, or communicated with the Court. The Court thus will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court’s Order, failure to comply with local rules and failure to prosecute this proceeding. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003) (noting that Rule 41(b) “has long been interpreted to permit courts to dismiss actions *sua sponte* for a plaintiff’s failure to prosecute or comply with the rules of civil procedure or court’s orders”).

IT IS ORDERED that the complaint (Doc. 1), amended complaint (Doc. 4), and second amended complaint (Doc. 5) filed by Plaintiff Richard Gene Rees are **DISMISSED without prejudice** under Rule 41(b) of the Federal Rules of Civil Procedure for failure to comply with the Court’s November 2, 2021 Order, failure to comply with the Local Rules, and failure to prosecute.



MARTHA VAZQUEZ
United States District Judge